

HOUSE BILL 1056

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By: **Delegates A. Kelly, Afzali, Beidle, Carr, Cullison, Frush, George, Hubbard, Ivey, Kach, Kipke, Luedtke, Mizeur, Parrott, Pena-Melnyk, Ready, and S. Robinson**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Health Occupations – Licensed Midwives

FOR the purpose of establishing the State Board of Midwives; specifying that this Act does not limit the right of certain individuals to practice certain occupations; specifying the composition of the Board; specifying the terms of a Board member; requiring the Governor to appoint a new member, under certain circumstances, if a vacancy on the Board occurs; authorizing the Governor to remove a member of the Board under certain circumstances; requiring the Board to elect a chair and any other officers from among its members; requiring the Board to make certain determinations relating to its officers; specifying that a majority of the members then serving on the Board is a quorum; requiring the Board to determine the times and places of its meetings; specifying that a Board member is entitled to certain compensation and reimbursement; authorizing the Board to employ a staff under certain circumstances; requiring the Board to adopt certain regulations consistent with certain standards; prohibiting the Board from adopting certain regulations; specifying the duties of the Board; establishing the State Board of Midwives Fund; authorizing the Board to set reasonable fees under certain circumstances; requiring the Board to pay the fees to the Comptroller and requiring the Comptroller to distribute the fees to the Fund; requiring the Fund to be used for certain purposes; specifying that the Fund is a continuing, nonlapsing fund, not subject to a certain provision of law; prohibiting unspent portions of the Fund from reverting to the General Fund; specifying that no other State money may be used to support the Fund, that a designee of the Board is to administer the Fund, and that money in the Fund may be used only for certain purposes; requiring the Legislative Auditor to audit the accounts and transactions of the Fund; specifying that a person who gives information to the Board or otherwise participates in its activities has a certain immunity from liability; requiring certain individuals, beginning on a certain date, to have a certain license before practicing midwifery in the State;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



prohibiting the Board from discriminating against an applicant or licensee for certain reasons; requiring an individual to meet certain requirements to qualify for a license; authorizing the Board to waive a certain examination under certain circumstances; requiring an applicant to submit certain information to the Board and pay a certain fee; requiring the Board to issue a license to any applicant who meets the requirements of this Act; authorizing licensed midwives to apply sutures for a certain purpose, administer local anesthetic under certain circumstances, and order certain medical tests and certain doses of prescription drugs commonly used in the practice of midwifery; authorizing licensed midwives to obtain certain prescription drugs and certain substances from certain pharmacists, manufacturers, or wholesale distributors; granting immunity from civil liability for certain acts or omissions to certain pharmacists, manufacturers, or wholesale distributors under certain circumstances; specifying the term of a license; requiring the Board to send certain information to licensees a certain time period before a license expires; requiring the Board to renew a license under certain circumstances; authorizing the Board to place a licensee on inactive status or to reinstate a license under certain circumstances; prohibiting a licensed midwife from surrendering a license under certain circumstances; authorizing the Board to take certain disciplinary action against an applicant or a licensee for certain reasons; requiring certain persons to file a certain report with the Board within a certain time period; authorizing the Board to assess a certain monetary penalty on a person that fails to file a certain report; requiring the Board to investigate certain complaints; authorizing the Board to commence disciplinary action under certain circumstances; specifying that certain investigations, reports, and recommendations are confidential under certain circumstances; requiring the Board to give a certain individual an opportunity for a hearing before the Board and to give certain notice and hold the hearing in accordance with a certain provision of law; authorizing a certain individual to be represented by counsel; authorizing the Board to issue subpoenas and administer oaths under certain circumstances; authorizing a certain court to take certain action against an individual who disobeys a subpoena from the Board or an order by the Board; authorizing the Board to hear and determine a matter, under certain circumstances; requiring certain individuals to pay certain costs under certain circumstances; requiring the Board to pass an order under certain circumstances; requiring the Board to expunge certain charges after a certain time period; requiring the holder of a license to surrender the license to the Board under certain circumstances; requiring the Board to return a license under certain circumstances; authorizing a person aggrieved by a decision of the Board to take certain action under certain circumstances; prohibiting the Board from reinstating a certain license under certain circumstances; requiring a midwife to display a certain notice under certain circumstances; prohibiting an individual from practicing midwifery in the State without a license; prohibiting certain individuals from making certain representations to the public, using certain designations, and using certain initials; specifying that this Act may be cited as the "Maryland Midwives Act"; subjecting this Act to the Program Evaluation Act; specifying the purpose of this Act; providing for the terms of the

initial Board members; providing for the termination of this Act; defining certain terms; and generally relating to the State Board of Midwives and the licensing of midwives.

BY renumbering

Article – State Government
 Section 8–403(b)(38) through (68), respectively
 to be Section 8–403(b)(39) through (69), respectively
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations
 Section 6.5–101 through 6.5–602 to be under the new title “Title 6.5. Midwives”
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government
 Section 8–403(a)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Government
 Section 8–403(b)(38)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–403(b)(38) through (68), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(39) through (69), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health Occupations

TITLE 6.5. MIDWIVES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

6.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BOARD” MEANS THE STATE BOARD OF MIDWIVES.

(C) “CERTIFIED PROFESSIONAL MIDWIFE” MEANS A PERSON WHO IS CERTIFIED TO PRACTICE MIDWIFERY BY THE NORTH AMERICAN REGISTRY OF MIDWIVES.

(D) “LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO PRACTICE MIDWIFERY.

(E) “LICENSED MIDWIFE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, AN INDIVIDUAL WHO IS LICENSED BY THE BOARD TO PRACTICE MIDWIFERY.

(F) (1) “MIDWIFERY” MEANS PROVIDING MATERNITY CARE FOR WOMEN DURING THE ANTEPARTUM, INTRAPARTUM, AND POSTPARTUM PERIOD, INCLUDING THE INDEPENDENT MANAGEMENT OF DELIVERIES AND CARE FOR THE NEWBORN.

(2) “MIDWIFERY” INCLUDES:

(I) THE DETECTION OF ABNORMAL CONDITIONS IN THE MOTHER AND NEWBORN;

(II) THE EXECUTION OF EMERGENCY MEASURES IN A LIFE-THREATENING SITUATION;

(III) THE POSSESSION AND DISPENSING OF LIFESAVING MEDICATIONS AND OTHER SUBSTANCES USED IN THE PRACTICE OF MIDWIFERY IN THE COURSE OF TREATING A MOTHER OR A NEWBORN IN ACCORDANCE WITH THE STANDARDS FOR PRACTICE OF THE NATIONAL ASSOCIATION OF CERTIFIED PROFESSIONAL MIDWIVES; AND

(IV) WELL WOMAN CARE AND FAMILY PLANNING.

(G) “NEWBORN” MEANS AN INFANT FROM BIRTH THROUGH THE FIRST 6 WEEKS OF LIFE.

(H) “NORMAL” MEANS, AS APPLIED TO PREGNANCY, LABOR, DELIVERY, THE POSTPARTUM PERIOD, AND THE NEWBORN PERIOD, CIRCUMSTANCES

UNDER WHICH A MIDWIFE HAS DETERMINED THAT A CLIENT IS AT LOW RISK OF DEVELOPING COMPLICATIONS.

(I) "POSTPARTUM" MEANS THE PERIOD FROM BIRTH THROUGH THE 6 WEEKS THEREAFTER.

(J) "PRACTICE MIDWIFERY" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN MIDWIFERY.

6.5-102.

THIS TITLE DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE A HEALTH OCCUPATION THAT THE INDIVIDUAL IS AUTHORIZED TO PRACTICE UNDER THIS ARTICLE.

SUBTITLE 2. STATE BOARD OF MIDWIVES.

6.5-201.

THERE IS A STATE BOARD OF MIDWIVES IN THE DEPARTMENT.

6.5-202.

(A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS.

(2) OF THE SEVEN BOARD MEMBERS:

(I) FIVE SHALL BE LICENSED MIDWIVES; AND

(II) TWO SHALL BE CONSUMER MEMBERS.

(3) (I) THE GOVERNOR SHALL APPOINT THE MIDWIFE MEMBERS, WITH THE ADVICE OF THE SECRETARY.

(II) THE SECRETARY SHALL MAKE EACH RECOMMENDATION AFTER CONSULTING WITH THE APPROPRIATE PROFESSIONAL ASSOCIATIONS.

(4) THE GOVERNOR SHALL APPOINT THE CONSUMER MEMBERS WITH THE ADVICE OF THE SECRETARY AND THE ADVICE AND CONSENT OF THE SENATE.

(B) EACH MIDWIFE MEMBER OF THE BOARD SHALL BE:

(1) IN GOOD STANDING WITH THE BOARD;

(2) A RESIDENT OF THE STATE; AND

(3) (I) ON OR BEFORE SEPTEMBER 30, 2013, AN INDIVIDUAL WHO PRACTICES MIDWIFERY AND WHO:

1. IS CERTIFIED BY THE NORTH AMERICAN REGISTRY OF MIDWIVES; AND

2. HAS A MINIMUM OF 5 YEARS EXPERIENCE; AND

(II) ON OR AFTER OCTOBER 1, 2013, A LICENSED MIDWIFE WHO HAS A MINIMUM OF 5 YEARS EXPERIENCE.

(C) EACH CONSUMER MEMBER OF THE BOARD:

(1) SHALL BE A RESIDENT OF THE STATE AND A MEMBER OF THE GENERAL PUBLIC;

(2) MAY NOT BE OR EVER HAVE BEEN LICENSED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE; AND

(3) MAY NOT HAVE A SUBSTANTIAL PERSONAL, BUSINESS, PROFESSIONAL, OR PECUNIARY CONNECTION WITH MIDWIFERY EDUCATION, BUSINESS, OR PRACTICE.

(D) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2012.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.

(E) (1) IF A VACANCY OCCURS ON THE BOARD, THE GOVERNOR SHALL APPOINT A NEW MEMBER TO SERVE ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(2) TO THE EXTENT PRACTICABLE, THE GOVERNOR SHALL FILL ANY VACANCY ON THE BOARD WITHIN 60 DAYS OF THE DATE OF VACANCY.

(F) THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR CAUSE PRIOR TO THE EXPIRATION OF THE MEMBER'S TERM.

6.5-203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND ANY OTHER OFFICERS THAT THE BOARD CONSIDERS NECESSARY.

(B) THE BOARD SHALL DETERMINE:

- (1) THE MANNER IN WHICH THE OFFICERS ARE ELECTED;**
- (2) THE TERM OF OFFICE OF EACH OFFICER; AND**
- (3) THE DUTIES OF EACH OFFICER.**

6.5-204.

(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) EACH MEMBER OF THE BOARD IS ENTITLED TO:

- (1) COMPENSATION IN ACCORDANCE WITH THE BUDGET OF THE BOARD; AND**
- (2) REIMBURSEMENT FOR EXPENSES AT A RATE DETERMINED BY THE BOARD.**

(D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE BUDGET OF THE BOARD.

6.5-205.

(A) (1) THE BOARD SHALL ADOPT REGULATIONS FOR THE LICENSURE OF MIDWIVES AND THE PRACTICE OF MIDWIFERY CONSISTENT WITH

THE STANDARDS PUBLISHED BY THE NATIONAL ASSOCIATION OF CERTIFIED PROFESSIONAL MIDWIVES OR A SUCCESSOR ORGANIZATION.

(2) THE REGULATIONS SHALL INCLUDE STANDARDS FOR THE ADMINISTRATION OF THE FOLLOWING SUBSTANCES BY A MIDWIFE TO A MOTHER OR A NEWBORN:

- (I) OXYGEN;
- (II) LIFESAVING MEDICATIONS;
- (III) PROPHYLACTIC ANTIBIOTICS; AND
- (IV) RHO(D) IMMUNE GLOBULIN.

(3) THE REGULATIONS MAY NOT:

(I) REQUIRE ANY AGREEMENT BETWEEN A MIDWIFE AND ANY OTHER INDIVIDUAL LICENSED OR REGISTERED UNDER THIS ARTICLE AS A CONDITION OF LICENSURE;

(II) REQUIRE THAT A MIDWIFE PRACTICE UNDER THE SUPERVISION OR DIRECTION OF ANY INDIVIDUAL LICENSED OR REGISTERED UNDER THIS ARTICLE;

(III) REQUIRE THE ASSESSMENT OF A MOTHER WHO IS SEEKING MIDWIFERY SERVICES BY ANY OTHER INDIVIDUAL LICENSED OR REGISTERED UNDER THIS ARTICLE; OR

(IV) LIMIT THE SETTING IN WHICH A LICENSED MIDWIFE MAY PRACTICE MIDWIFERY.

(B) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS TITLE, THE BOARD SHALL:

(1) ESTABLISH PROCEDURES FOR THE ISSUANCE OF LICENSES TO APPLICANTS WHO QUALIFY FOR LICENSURE BY RECIPROCITY;

(2) PROVIDE ANY SERVICE AND PERFORM ANY FUNCTION THAT IS NECESSARY TO FULFILL THE BOARD'S PURPOSES;

(3) ADOPT A CODE OF ETHICS FOR LICENSED MIDWIVES; AND

(4) AFTER THE BOARD HAS RECEIVED A WRITTEN AND SIGNED COMPLAINT, INCLUDING A REFERRAL FROM THE COMMISSIONER OF LABOR AND INDUSTRY, CONDUCT AN UNANNOUNCED INSPECTION OF THE OFFICE OF A MIDWIFE, OTHER THAN AN OFFICE OF A MIDWIFE IN A HOSPITAL, A RELATED INSTITUTION, A FREESTANDING MEDICAL FACILITY, OR A FREESTANDING BIRTHING CENTER, TO DETERMINE COMPLIANCE AT THAT OFFICE WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS AND MAKE RECOMMENDATIONS TO THE BOARD, AS NECESSARY.

6.5-206.

(A) THERE IS A STATE BOARD OF MIDWIVES FUND.

(B) (1) THE BOARD MAY SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND ITS OTHER SERVICES.

(2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD.

(3) FUNDS TO COVER THE COMPENSATION AND EXPENSES OF BOARD MEMBERS SHALL BE GENERATED BY FEES SET UNDER THIS SECTION.

(C) (1) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE BOARD OF MIDWIVES FUND.

(D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS TITLE.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

(4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

(E) (1) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE FUND.

(2) MONEY IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS TITLE.

(F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

6.5-207.

A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-722 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

SUBTITLE 3. LICENSING.

6.5-301.

(A) BEGINNING OCTOBER 1, 2013, EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE MIDWIFERY IN THE STATE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A REGISTERED NURSE WHO IS CERTIFIED UNDER THIS ARTICLE TO PRACTICE NURSE MIDWIFERY;

(2) A STUDENT OR AN APPRENTICE WHO IS UNDER THE SUPERVISION OF A LICENSED MIDWIFE;

(3) AN INDIVIDUAL ENGAGING IN ACTIVITIES WITHIN THE SCOPE OF PRACTICE OF THE PROFESSION OR OCCUPATION FOR WHICH THE PERSON IS LICENSED IN THE STATE, PROVIDED THE INDIVIDUAL DOES NOT REPRESENT TO THE PUBLIC DIRECTLY OR INDIRECTLY THAT THE INDIVIDUAL IS A LICENSED MIDWIFE;

(4) AN INDIVIDUAL EMPLOYED AS A MIDWIFE BY AN AGENCY OF THE FEDERAL GOVERNMENT IF THE INDIVIDUAL PROVIDES MIDWIFERY SERVICES SOLELY UNDER THE DIRECTION AND CONTROL OF THE AGENCY; AND

(5) AN INDIVIDUAL WHO PROVIDES MIDWIFERY SERVICES IN ACCORDANCE WITH THE INDIVIDUAL'S RELIGIOUS BELIEFS AND WHO IS A MEMBER OF A COMMUNITY OF INDIVIDUALS WHO SHARE THE INDIVIDUAL'S RELIGIOUS BELIEFS.

(C) THE BOARD MAY NOT, IN ANY MANNER, DISCRIMINATE AGAINST ANY APPLICANT OR LICENSEE FOR REASON OF SEX, AGE, RACE, COLOR, CREED, OR NATIONAL ORIGIN.

6.5-302.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) THE APPLICANT SHALL BE A HIGH SCHOOL GRADUATE OR HAVE COMPLETED EQUIVALENT EDUCATION.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS THE COMPREHENSIVE EXAMINATION OF THE NORTH AMERICAN REGISTRY OF MIDWIVES.

(F) THE APPLICANT SHALL HOLD A VALID CERTIFIED PROFESSIONAL MIDWIFE CREDENTIAL GRANTED BY THE NORTH AMERICAN REGISTRY OF MIDWIVES OR A SUCCESSOR ORGANIZATION.

6.5-303.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY WAIVE THE EXAMINATION REQUIREMENT OF THIS TITLE FOR AN INDIVIDUAL WHO HAS PRACTICED MIDWIFERY FOR AT LEAST 5 YEARS IN ANOTHER STATE.

(B) THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 6.5-304 OF THIS SUBTITLE; AND

(2) PROVIDES EVIDENCE REQUIRED BY THE BOARD THAT THE APPLICANT:

(I) OTHERWISE MEETS THE QUALIFICATIONS REQUIRED BY THIS TITLE; AND

(II) HAS BEEN LICENSED UNDER REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THE LICENSING REQUIREMENTS OF THIS TITLE.

6.5-304.

TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES;

(2) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD;

(3) IF THE APPLICANT IS SEEKING TO BE LICENSED WITHOUT EXAMINATION UNDER § 6.5-303 OF THIS SUBTITLE, PROVIDE PROOF OF LICENSURE IN GOOD STANDING IN ALL STATES IN WHICH THE APPLICANT IS LICENSED; AND

(4) IF THE APPLICANT HAS BEEN LICENSED, CERTIFIED, OR REGISTERED TO PRACTICE MIDWIFERY IN ANOTHER STATE, SUBMIT ALL EVIDENCE RELATING TO:

(I) ANY DISCIPLINARY ACTION TAKEN OR ANY ADMINISTRATIVE PENALTIES ASSESSED AGAINST THE APPLICANT BY THE APPROPRIATE STATE LICENSING, CERTIFICATION, OR REGISTRATION AUTHORITY; AND

(II) ANY CONSENT AGREEMENTS THE APPLICANT ENTERED INTO THAT CONTAIN CONDITIONS PLACED ON THE APPLICANT'S PROFESSIONAL CONDUCT AND PRACTICE, INCLUDING ANY VOLUNTARY SURRENDER OF A LICENSE.

6.5-305.

THE BOARD SHALL ISSUE A LICENSE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE.

6.5-306.

(A) A LICENSE AUTHORIZES A LICENSEE TO PRACTICE MIDWIFERY IN THE STATE.

(B) A LICENSED MIDWIFE MAY:

(1) APPLY SUTURES FOR THE PURPOSE OF REPAIRING FIRST, SECOND, AND THIRD DEGREE PERINEAL TEARS;

(2) ADMINISTER A LOCAL ANESTHETIC IN CONNECTION WITH THE PROCEDURE DESCRIBED IN ITEM (1) OF THIS SUBSECTION;

(3) ORDER MEDICAL TESTS AND THERAPEUTIC DOSES OF PRESCRIPTION DRUGS COMMONLY USED IN THE PRACTICE OF MIDWIFERY; AND

(4) OBTAIN THE PRESCRIPTION DRUGS AND OTHER SUBSTANCES SPECIFIED IN THIS SUBSECTION FROM A PHARMACIST LICENSED UNDER TITLE 12 OF THIS ARTICLE, A MANUFACTURER AS DEFINED UNDER § 12-6C-01 OF THIS ARTICLE, OR A WHOLESALE DISTRIBUTOR WHO HOLDS A PERMIT ISSUED BY THE BOARD OF PHARMACY UNDER TITLE 12 OF THIS ARTICLE:

(I) VITAMIN K FOR NEWBORNS;

(II) RHO(D) IMMUNE GLOBULIN FOR RH-NEGATIVE MOTHERS;

(III) POSTPARTUM ANTIHEMORRHAGING DRUGS FOR MOTHERS;

(IV) OXYGEN FOR MOTHERS OR NEWBORNS;

(V) EYE PROPHYLAXIS FOR NEWBORNS; AND

(VI) ANTIBIOTICS FOR GROUP BETA STREP POSITIVE MOTHERS.

(C) A PHARMACIST LICENSED UNDER TITLE 12 OF THIS ARTICLE, A MANUFACTURER AS DEFINED UNDER § 12-6C-01 OF THIS ARTICLE, OR A WHOLESALE DISTRIBUTOR WHO HOLDS A PERMIT ISSUED BY THE BOARD OF PHARMACY UNDER TITLE 12 OF THIS ARTICLE, WHEN PROVIDING A PRESCRIPTION DRUG TO A LICENSED MIDWIFE IN ACCORDANCE WITH THIS SECTION, IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION IN PROVIDING THE

PRESCRIPTION DRUG IF THE ACT OR OMISSION IS NOT ONE OF GROSS NEGLIGENCE.

6.5-307.

(A) (1) THE TERM OF A LICENSE ISSUED BY THE BOARD IS 2 YEARS.

(2) A LICENSE EXPIRES AT THE END OF ITS TERM UNLESS THE LICENSE IS RENEWED AS PROVIDED BY THE BOARD.

(B) AT LEAST 1 MONTH BEFORE THE LICENSE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

(C) THE BOARD SHALL RENEW THE LICENSE OF A LICENSEE WHO:

(1) SUBMITS A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(2) PAYS A RENEWAL FEE SET BY THE BOARD;

(3) IS OTHERWISE ENTITLED TO BE LICENSED; AND

(4) MEETS THE CONTINUING EDUCATION REQUIREMENTS ADOPTED BY THE BOARD.

6.5-308.

(A) (1) THE BOARD MAY PLACE A LICENSEE ON INACTIVE STATUS IF THE LICENSEE SUBMITS TO THE BOARD:

(I) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND

(II) THE INACTIVE STATUS FEE SET BY THE BOARD.

(2) THE BOARD SHALL ISSUE A LICENSE TO A MIDWIFE WHO IS ON INACTIVE STATUS IF THE INDIVIDUAL IS OTHERWISE ENTITLED TO BE LICENSED UNDER THIS TITLE AND SUBMITS TO THE BOARD:

(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS THE BOARD ADOPTS FOR THIS PURPOSE; AND

(II) A REINSTATEMENT FEE SET BY THE BOARD.

(B) THE BOARD SHALL REINSTATE THE LICENSE OF A MIDWIFE WHO HAS FAILED TO RENEW THE LICENSE FOR ANY REASON IF THE MIDWIFE:

(1) MEETS THE RENEWAL REQUIREMENTS OF § 6.5-307 OF THIS SUBTITLE;

(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD; AND

(3) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE QUALIFICATIONS AND REQUIREMENTS ADOPTED BY THE BOARD UNDER THIS TITLE FOR LICENSE REINSTATEMENTS.

6.5-309.

(A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE, A LICENSED MIDWIFE:

(1) MAY NOT SURRENDER THE LICENSE; OR

(2) MAY NOT ALLOW THE LICENSE TO LAPSE BY OPERATION OF LAW WHILE THE LICENSEE IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE LICENSEE.

(B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE LICENSEE UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO ACCEPT SURRENDER OF THE LICENSE.

SUBTITLE 4. DISCIPLINARY ACTIONS.

6.5-401.

SUBJECT TO THE HEARING PROVISIONS OF § 6.5-403 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, PLACE ANY LICENSEE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OF ANY LICENSEE IF THE APPLICANT OR LICENSEE:

- (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;**
- (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**
- (3) AS PART OF THE PRACTICE OF MIDWIFERY, KNOWINGLY DOES AN ACT THAT EXCEEDS THE SCOPE OF THE PRACTICE OF MIDWIFERY;**
- (4) IS GROSSLY NEGLIGENT IN PRACTICING MIDWIFERY;**
- (5) ACTS IN A MANNER INCONSISTENT WITH GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF MIDWIFERY;**
- (6) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;**
- (7) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY STATE OR COUNTRY, CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY, OR DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;**
- (8) PROVIDES PROFESSIONAL SERVICES WHILE:**
 - (i) UNDER THE INFLUENCE OF ALCOHOL; OR**
 - (ii) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR ANY OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;**
- (9) ADVERTISES IN A MANNER THAT VIOLATES THIS TITLE;**
- (10) USES A TITLE NOT AUTHORIZED BY THIS TITLE;**

(11) IS CURRENTLY ADJUDICATED AS BEING A DISABLED INDIVIDUAL UNDER TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE;

(12) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF MIDWIFERY;

(13) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED BY LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(14) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(15) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MIDWIFERY;

(16) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE LICENSEE IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV-POSITIVE;

(17) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION IN WHICH IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE GUIDELINES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION ON UNIVERSAL PRECAUTIONS;

(18) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(19) USES FALSE, DECEPTIVE, OR MISLEADING ADVERTISING; OR

(20) VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED BY THE BOARD.

6.5-402.

(A) THE BOARD SHALL INVESTIGATE ANY COMPLAINT FILED WITH THE BOARD THAT ALLEGES THAT THERE ARE GROUNDS FOR ACTION UNDER § 6.5-401 OF THIS SUBTITLE.

(B) AFTER ITS INVESTIGATION, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY COMMENCE ACTION ON ANY OF THE GROUNDS SET FORTH IN § 6.5-401 OF THIS SUBTITLE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE BOARD PASSES AN ORDER UNDER § 6.5-404 OF THIS SUBTITLE, EACH RELATED INVESTIGATION, REPORT, AND RECOMMENDATION IS CONFIDENTIAL.

(2) ON THE REQUEST OF A PERSON WHO HAS MADE A COMPLAINT TO THE BOARD, THE BOARD SHALL PROVIDE THE PERSON WITH INFORMATION ON THE STATUS OF THE COMPLAINT.

6.5-403.

(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 6.5-401 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(C) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(D) OVER THE SIGNATURE OF AN OFFICER OR THE ADMINISTRATOR OF THE BOARD, THE BOARD MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN CONNECTION WITH ANY INVESTIGATION UNDER THIS TITLE AND ANY HEARINGS OR PROCEEDINGS BEFORE THE BOARD.

(E) IF WITHOUT LAWFUL EXCUSE A PERSON DISOBEYS A SUBPOENA FROM THE BOARD OR AN ORDER BY THE BOARD TO TAKE AN OATH OR TO TESTIFY OR ANSWER A QUESTION, THEN, ON PETITION OF THE BOARD, A COURT OF COMPETENT JURISDICTION MAY PUNISH THE PERSON AS FOR CONTEMPT OF COURT.

(F) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

(G) IF AFTER A HEARING AN INDIVIDUAL IS FOUND IN VIOLATION OF § 6.5-401 OF THIS SUBTITLE, THE INDIVIDUAL SHALL PAY THE COSTS OF THE HEARING AS SPECIFIED IN A REGULATION ADOPTED BY THE BOARD.

6.5-404.

(A) (1) IF THE BOARD FINDS THAT THERE ARE GROUNDS FOR ACTION UNDER § 6.5-401 OF THIS SUBTITLE, THE BOARD SHALL PASS AN ORDER IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(2) IF THE BOARD DISMISSES ALL CHARGES, THE BOARD SHALL EXPUNGE ALL RECORD OF THE CHARGES 3 YEARS AFTER THE CHARGES ARE DISMISSED.

(3) IF THE BOARD ISSUES AN ADVISORY OPINION, THE BOARD, AT THE REQUEST OF THE LICENSEE, SHALL EXPUNGE ALL RECORD OF THE MATTER 5 YEARS AFTER THE DETERMINATION IS MADE.

(B) (1) IF A LICENSE IS REVOKED OR SUSPENDED, THE HOLDER SHALL SURRENDER THE LICENSE TO THE BOARD ON DEMAND.

(2) AT THE END OF A SUSPENSION PERIOD, THE BOARD SHALL RETURN TO THE LICENSEE ANY LICENSE SURRENDERED UNDER THIS SECTION.

6.5-405.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, MAY:

(1) APPEAL THAT DECISION TO THE BOARD OF REVIEW; AND

(2) TAKE ANY FURTHER APPEAL ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

(B) (1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 6.5-401 OF THIS SUBTITLE MAY NOT APPEAL TO THE SECRETARY OR BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

6.5-406.

(A) IF THE BOARD HAS REVOKED OR SUSPENDED THE LICENSE OF A LICENSEE, THE BOARD MAY NOT REINSTATE THE LICENSE UNTIL THE BOARD IS SATISFIED THAT THE INDIVIDUAL:

(1) HAS COMPLIED WITH ALL THE TERMS AND CONDITIONS IN THE FINAL ORDER; AND

(2) IS CAPABLE OF SAFELY ENGAGING IN THE PRACTICE OF NATUROPATHIC MEDICINE.

(B) THE BOARD MAY NOT REINSTATE THE LICENSE OF AN INDIVIDUAL WHOSE LICENSE WAS REVOKED BY THE BOARD WITHIN 6 MONTHS AFTER THE DATE OF THE REVOCATION.

SUBTITLE 5. PROHIBITED ACTS; PENALTIES.

6.5-501.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT PRACTICE MIDWIFERY IN THE STATE WITHOUT A LICENSE.

6.5-502.

UNLESS AN INDIVIDUAL IS LICENSED TO PRACTICE MIDWIFERY, THE INDIVIDUAL MAY NOT:

(1) REPRESENT TO THE PUBLIC, BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR BY ANY OTHER MEANS, THAT THE INDIVIDUAL IS LICENSED BY THE BOARD TO PRACTICE MIDWIFERY;

(2) USE THE DESIGNATION “MIDWIFE” OR “LICENSED MIDWIFE”;
OR

(3) USE THE INITIALS “L.M.” AFTER THE NAME OF THE INDIVIDUAL.

SUBTITLE 6. SHORT TITLE; TERMINATION OF TITLE.

6.5-601.

THIS TITLE MAY BE CITED AS THE “MARYLAND MIDWIVES ACT”.

6.5–602.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE PROGRAM EVALUATION ACT, THIS TITLE AND ALL RULES AND REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2023.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(38) MIDWIVES, STATE BOARD OF (§ 6.5–201 OF THE HEALTH OCCUPATIONS ARTICLE; JULY 1, 2021).

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the State Board of Midwives shall expire as follows:

- (1) two members in 2014;
- (2) two members in 2015; and
- (3) three members in 2016.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.